

# Office of Policy, Economics, and Innovation FY07 National Program Guidance National Environmental Performance Track Program

## EXECUTIVE SUMMARY

EPA's Innovation Action Council (IAC), the Agency's senior career program and regional leaders (i.e., DAAs/DRAs) who set direction, oversee and champion innovative environmental programs and policies, has endorsed three priority innovations for scale-up, (i.e., full-scale implementation) and recommended their integration into National Program Guidance. These priority innovations are: 1) the National Environmental Performance Track Program, (Performance Track) ([www.epa.gov/performance-track](http://www.epa.gov/performance-track)), EPA's flagship innovation program for recognizing and rewarding top-performing facilities that consistently exceed regulatory requirements; address unregulated multimedia environmental issues; and produce measurable environmental results. Member facilities have collectively achieved significant reductions in their overall environmental impacts. These reductions can assist the National Program Offices and state media programs in achieving their goals and fulfilling their obligations under existing regulations. 2) Environmental Management Systems (EMS) ([www.epa.gov/ems](http://www.epa.gov/ems)), a systematic way of managing a facility's environmental footprint based on a plan-do-check-act, continual improvement framework that can be used as a powerful tool for improving environmental performance; and, 3) the Environmental Results Program (ERP), ([www.epa.gov/permits](http://www.epa.gov/permits)) an integrated system of compliance assistance, self-certification, and statistically-based performance measurement used by States for cost-effectively regulating and improving the performance of small business sectors. Programs and Regions are encouraged to seek opportunities to employ EMS and ERP as environmental problem-solving tools wherever deemed appropriate.

The Office of Policy, Economics, and Innovation (OPEI) has developed various means for integrating these priority innovations into the FY2007 Guidance. First, OPEI Program Guidance for Performance Track was created with associated regional commitments. Second, a general reference to the three priority innovations and their IAC endorsement are integrated into the each of the five National Program Office Guidance, as well as specific activity references to these priority innovations if relevant. Details on these references and OPEI Guidance are available at [www.epa.gov/performance-track](http://www.epa.gov/performance-track). Likewise, the following sections of this document outline the OPEI Performance Track Guidance.

This OPEI National Program Guidance outlines national and regional priorities that are central to expanding Performance Track. *Section I* provides background information on the Office of Policy, Economics, and Innovation within which Performance Track is managed. *Section II: Introduction* provides an overview of Performance Track. *Section III: Program Priorities* outlines general, national, and regional goals for Performance Track growth. *Section IV: Implementation Strategies* highlights several strategies for achieving this growth, and *Section V: Tracking Progress*

provides the specific regional performance expectations, targets, and commitments and the regional objectives that support those expectations. The strategies, goals and commitments presented in this guidance were designed in collaboration with regional and State partners. This guidance also supports Goal 5 of EPA's Strategic Plan: Compliance and Environmental Stewardship.

*OPEI FY06 National Program Guidance 1 3/02/2006*

## National Environmental Performance Track Program Guidance

### I. Office of Policy, Economics, and Innovation (National Center for Environmental Innovation)

EPA's Office of Policy, Economics, and Innovation (OPEI) supports the Agency's mission by promoting regulatory and economic analysis and innovation to achieve greater and more cost-effective public health and environmental protection. The Office's National Center for Environmental Innovation, working in partnership with other EPA programs, States, businesses, communities and other interested parties, promotes environmental stewardship and related policy changes in an effort to create a more performance-based regulatory system.

### II. Introduction

Launched in 2000, Performance Track ([www.epa.gov/performance-track](http://www.epa.gov/performance-track)) is the Agency's flagship innovation program for recognizing facilities that consistently exceed regulatory requirements, address unregulated environmental issues, and produce measurable environmental results. This voluntary program is based on the premise that government should complement existing programs with new tools and strategies that not only protect people and the environment, but also capture opportunities for reducing cost and spurring technological innovation.

To qualify, facilities must have a record of sustained compliance and a comprehensive, facility-wide environmental management system (EMS). They also must commit to and publicly report on improvement in (typically) four environmental indicators. Currently, there are approximately 400 Performance Track member facilities.

Member facilities have collectively achieved significant reductions in their overall environmental impacts. These reductions can assist the National Program Offices and State media programs in achieving their goals and fulfilling their obligations under existing regulations. In FY05, Performance Track members achieved normalized annual reductions of 3.4 billion gallons in water use; 8,800 tons of hazardous materials use; 150,000 MTCO<sub>2</sub>E of greenhouse gases; 186 tons of toxic discharges to water; and 3,188 tons of combined NO<sub>x</sub> and SO<sub>x</sub> emissions.

As part of its long-term vision, the Performance Track program is building a culture of corporate environmental responsibility and superior performance. Facilities are complying with environmental regulations as a component of their Performance Track commitments to manage their broader environmental impacts otherwise unattainable through regulations. The short- and long-term outcomes for Performance Track facilities are multidimensional. Members continue to implement increasingly sophisticated analytical and management systems; they are anticipating and managing new environmental threats; they are optimizing their internal operations and

OPEI FY06 National Program Guidance 2 3/02/2006 managing their supply chains and materials flow, and they are directly assisting EPA meet and exceed national environmental goals.

Performance Track is encouraging States to establish similar leadership programs. Currently, about 20 States have similar performance-based environmental leadership programs and nine States have signed Memoranda of Agreement (MOA) to formally recognize their continued cooperation with Performance Track. EPA and the States provide regulatory and non-regulatory incentives ([www.epa.gov/performance-track/benefits/regadmin/ptrule1.htm](http://www.epa.gov/performance-track/benefits/regadmin/ptrule1.htm)) to Performance Track members.

Performance Track also supports other initiatives within the Agency, such as the Green Suppliers Network, the State Innovation Grant Program, Resource Conservation Challenge (RCC), the Community Action for a Renewed Environment (CARE), and the Five Star Wetlands Restoration Program. For example, the Performance Track Corporate Leaders are expanding their involvement in EPA's Green Suppliers Network as a way to influence the environmental performance of their supply chain. The State Innovation Grant Program solicitation has been expanded to include proposals for State performance-based environmental leadership programs like Performance Track, as well as continuing to seek State proposals for permitting alternatives, such as Environmental

Management Systems and the Environmental Results Program. Performance Track members will continue to reflect RCC objectives in their annual commitments. The Performance Track program will also explore how member facilities can assist communities participating in the CARE program and how facilities can manage critical environmental issues, such as preserving and restoring habitat, including wetlands, through participation in the Five Star Wetlands Restoration Program.

National programs support the Performance Track program and have contributed to its success. The Office of Enforcement and Compliance Assurance (OECA) has supported the Performance Track Program since its inception. OECA continues to provide resources at the national and regional level for compliance screening and legal counsel. Each national program office is working with OPEI to augment existing incentives to Performance Track members.

EPA's Innovation Action Council endorsed Performance Track as an innovation for "scale-up," (i.e., full-scale implementation). In a 2004 letter to Assistant and Regional Administrators, the Administrator accepted the IAC recommendation, and pledged his personal leadership in expanding and increasing support for the Program. He also asked EPA senior managers to look for ways to increase their investment in Performance Track.

Several elements of the Performance Track scale-up strategy endorsed by the IAC are underway. First, a central focus has been outreach to States to encourage active participation and adoption of Performance Track member incentives. Second, the Administrator asked Regional and Assistant Administrators to see that sufficient resources and management attention are dedicated to the Program. Third, several steps are being taken to increase the public visibility of the program. Fourth, EPA has launched a Corporate Leader ([www.epa.gov/performance-track/corporateleaders](http://www.epa.gov/performance-track/corporateleaders)) designation within the Performance Track program.

OPEI FY06 National Program Guidance 3 3/02/2006

### III. Program Priorities

#### National Program Priorities

National programs, Regions, and States play important roles in the development, implementation and growth of the Performance Track program. National programs work with Performance Track to develop incentives because its members have demonstrated achievement of environmental improvements beyond regulatory requirements.

The programs partner with Performance Track members to fast-track program innovations (e.g., flexible air permitting) and request feedback on future innovations and policy initiatives.

In FY07, OPEI will work with other National Program Managers to:

- Continue to develop new incentives and determine how Performance Track members can fast-track new program innovations.

. • Explore how national and regional programs can best recognize regional and State Performance Track activities and accomplishments (e.g., site visits). For example, OPEI has worked with the Office of Water to develop a process to expedite the review of National Pollutant Discharge Elimination System (NPDES) permits held by Performance Track facilities.

Regional Priorities Regions play a central role in implementing and expanding the Performance Track Program. Key regional activities include:

- . • Work with States to adopt and implement Performance Track incentives at the State level;
- . • Continue to recruit highly qualified applicants with the goal of achieving greater levels of overall environmental improvement;
- . • Conduct application reviews, compliance screens, site visits and other administrative functions;
- . • Provide member services, such as holding periodic meetings with senior EPA leadership, regional member events and best practices seminars and information exchanges; and
- . • Support State efforts related to their performance-based environmental leadership programs and Performance Track.

Additionally, Regions are increasingly using Performance Track members to test new approaches and help achieve regional program goals.

In FY07 the Performance Track program has three primary goals that rely on regional and State support:

- . • Grow the community of Performance Track members
- . • Implement Performance Track incentives at the State level.
- . • Incorporate Performance Track into EPA/State environmental performance agreements.

OPEI FY06 National Program Guidance 4 3/02/2006

#### IV. Implementation Strategies

1. Grow the community of Performance Track members. In FY07, Performance Track has set a goal of receiving 100 new member applications to increase the level of environmental performance improvements and to build a critical mass of Performance Track members, both regionally and nationally.<sup>1</sup>

The following approaches and activities can be used to advance this goal:

- . • Build stronger working relationships with Performance Track members who can serve as program “diplomats” through activities such as hosting facility recruitment workshops and participating in Performance Track presentations.
- . • Enlist the help of and partner with local environmental and business NGOs.
- . • Continue to build cooperative relationships with trade associations, especially the Performance Track Participants Association, to help promote and grow Performance Track membership in key sectors with significant environmental risks.
- . • Continue to build on existing formal partnerships with other federal agencies to recruit highly qualified applicants in both private and public sector facilities, as well as catalyze additional federal-level incentives for members.

2. The Regions, working with States, will help implement Performance Track incentives at the State level. Make available to Performance Track members at least two key incentives in 25 or more States, tribes, or territories. These incentives presently include extended hazardous waste accumulation time under RCRA (under the April 2004 Performance Track rule), reduced frequency of MACT reports (April 2004 rule), placing Performance Track facilities at a low-priority status for routine inspections, and implementation of the Office of Water’s NPDES<sup>2</sup> permitting reviews for Performance Track members.

Regions can use the following approaches and activities to advance this goal:

- . • Hold incentives, information and roundtable discussions with regional and State enforcement and regulatory Program staff.
- . • Focus on the States with the largest number of Performance Track member facilities that can take advantage of existing incentives.
- . • Directly engage the States with State-specific fact sheets/sessions on the benefits that States could realize through incentives implementation.
- . • Ensure all member facilities that are eligible for a particular incentive understand how to take advantage of it.
- . • Encourage greater familiarity among State MACT and RCRA staff with Performance Track incentives.

<sup>1</sup> The Performance Track membership application level in FY04 was similar to the FY07 target and matches FY05 projections.<sup>2</sup> As of March 2006, sixteen states have adopted the Performance Track incentive of extended accumulation time for hazardous waste under RCRA. Nine states honor the Performance Track incentive of low-priority status for routine inspections. For the Performance Track incentive of reduced reporting for sources subject to MACT standards, the regulation went into effect immediately upon publication in the Federal Register on April 22, 2004, which means it should be available in all 50 states, unless there is a State-specific regulation that prevents this Performance Track regulation from taking effect.

- . • Work with individual State programs to develop mechanisms that allow for prospective incorporation by reference of PT regulatory incentives and similar mechanisms for policy and administrative incentives.
- . • Develop one or more expedited processes at the regional level for approving State authorizations and delegations that may be required prerequisites to implementing incentives.
- . • On regional EPA website homepages, publicize the States where incentives are available.
- . • Enlist the help of and partner with local environmental and business NGOs to accomplish the above activities.

3. Reflect Performance Track commitments in State environmental performance agreements. EPA and States will incorporate Performance Track implementation plans into Regional-State environmental performance agreements (e.g., PPAs). Implementation considerations would include how States and Regions will support the Performance Track program, including adoption of incentives. Regions can use the following approaches and activities to advance this goal:

- . • Consider adding Performance Track implementation plans into environmental performance agreements such as PPAs (as well as Regional Plans).
- . • Pilot with one state to create standardized language for environmental performance agreements.
- . • As they are developed, incorporate Performance Track measures into regional and State environmental performance agreements.

## V. Tracking Progress

### In support of EPA's Strategic Plan, Goal 5: Compliance and Environmental Stewardship

The following three regional performance expectations directly support Goal 5 in EPA's

Strategic Plan, which states that EPA will improve environmental performance through compliance with environmental requirements, prevent pollution, and promote environmental stewardship, as well as protect human health and the environment by encouraging innovation and providing incentives for government, business, and the public that promote environmental stewardship.

#### National Performance Expectations

1. Grow the community of Performance Track members. During FY 2007-2008, each Region will contribute to the aggregate national objective of 100 applications. Target: Each year, receive 100 new Performance Track member applications nationally. Commitment: Identify regional number of Performance Track applications received.

OPEI FY06 National Program Guidance 6 3/02/2006

1. 2. The Regions, working with States, will help implement Performance Track incentives at

the State level. During FY 2007-2008, each Region will work to implement key incentives. Target: Each Region will work to implement at least two key Performance Track

incentives in 25 or more States, tribes, or territories nationally.

Commitment: Identify regional number of States, tribes, or territories in which Performance Track incentives have been adopted and made available to Performance Track members.

3. Reflect Performance Track commitments in State environmental performance agreements. During FY 2007-2008, each Region will work with States to include Performance Track implementation plans into environmental performance agreements (e.g. PPAs). Target: Each Region will incorporate Performance Track implementation plans into at least one State environmental performance agreement. Commitment: Identify regional number of State environmental performance agreements that incorporate Performance Track.

VI. Program Contact

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OPEI FY06 National Program Guidance 7 3/02/2006

APPENDIX A

References to Performance Track in EPA's Regional Strategic Plans FY 2004-2008(Accessed at [www.epa.gov/ocfo/regionplans/regionalplans2.htm](http://www.epa.gov/ocfo/regionplans/regionalplans2.htm) on February 18, 2005) The references below include several examples of work that is presently being done to support Performance Track in the regions.

Region 1

Objective 5.2 Improve Environmental Performance through Pollution Prevention and Innovation: By 2008, improve environmental protection and enhance natural resource conservation on the part of government, business, and the public through the adoption of pollution prevention and sustainable practices that include the design of products and manufacturing processes that generate less pollution, the reduction of regulatory barriers, and the adoption of results-based, innovative, and multimedia approaches. Strategic Targets for Objective 5.2: 40 facilities will be participating in the Performance Track



program in the Region, and there will be a 50% increase in the number of facilities participating in the Performance Track “energy challenge.”

#### Region 2

Goal 5: Compliance and Environmental Stewardship, Objective 5.2: Pollution Prevention and Innovation, Sub-objective: 5.2.3: Business and Community Innovation (PT, sector strategy) Current State/Major Problems to be Addressed: From 2001-2003, Performance Track (PT) membership grew 35% (from 34 members to 45 members). Region 2's PT members collectively have reduced water use by 100 million gallons and reduced hazardous waste generation by 10,000 tons in 2001. Other notable improvements include reduced emissions of greenhouse gases and reduced energy usage. Strategy Highlight: Region will continue to be a leader in promoting and enrolling Performance Track members.

#### Region 3

Under Goal 5: Compliance and Environmental Stewardship and in its Cross-cutting Strategies Chapter 3, Region 3 focuses on increasing membership value for current and future Performance Track members by negotiating a Memorandum of Agreement (MOA) with each Region 3 State to coordinate Program implementation and delivery of regulatory incentives. In addition, the Region will establish a Performance Track members' network through which special events and workshops for members will be held and will work with State partners to identify Region-only incentives.

#### Region 4

Sub-objective 5.2.3: Business and Community Innovation: Through 2008, achieve measurably improved environmental performance through sector-based approaches, performance-based programs, and assistance to small business. Strategic Targets: By 2008, Performance Track members collectively will achieve an annual reduction of: 1.5 billion gallons in water use; 3,300,000 MMBTUs in energy use; 25,000 tons in material use; 450,000 tons of solid waste; 10,000 tons of air releases; and 19,000 tons in water discharges compared to 2001.

#### OPEI FY06 National Program Guidance a-1 3/02/2006

#### Region 5

Sub-objective 5.2.3: Business and Community Innovation C.: Reductions of 3% in water use, 3% in energy use, 3% in total solid waste, 1% in air releases, and 5% in water discharges by Performance Track members who commit to improvements in those categories. Measures: 3% reduction in water use; 3% reduction in energy use; 3% reduction in solid waste; 1% reduction in air releases; and 3% reduction in water discharges. Encourage reductions in pollution by Performance Track members by recruiting high-performing facilities to apply for membership in the program, ensure that successful applicants have developed meaningful environmental commitments, conduct site visits at approximately 20% on facilities annually, provide program incentives as appropriate, and carefully review and evaluate annual performance reports. Evaluation:

Will be based on performance data provided by member facilities in annual performance reports.

#### Region 6

In Section VI, Cross-Cutting Issues, Region 6 goals include: implement one alternative approach innovation pilot project in partnership with a State agency and maintain a 25 percent annual increase in Performance Track membership. Under Goal 5: Compliance and Environmental Stewardship, Objective 2: Improve Environmental Performance through Pollution Prevention and Innovation, Sub-objective 3: Business and Community Innovation: the strategy highlights include the following language: Under the National Environmental Performance Track Program, the Region has added new members in every application cycle: currently there are 39 Performance Track members in Region 6. Region 6 was the first Region to sign an MOA with a State (Texas) to facilitate simultaneous membership in both the federal and State programs to achieve even greater environmental benefits. (The use of innovative methods, like EMS, is a priority for the State of Texas.)

Long-term Strategic Target: Through 2008, achieve measurably improved environmental performance through sector-based approaches, performance-based programs, and assistance to small business. Strategy: Region will promote the development and implementation of EMS consistent with the Agency's EMS Policy. EMSs are key criteria for participation in Performance Track.

#### Region 7

Sub-objective 5.2.3 Business and Community Innovation: Through 2008, achieve measurably improved environmental performance through sector-based approaches, performance-based programs, and assistance to small business, Activity 3: Performance Track. Region 7 will continue to support Performance Track, expand participation, and incorporate strategic targets. Results: Number of facilities that participate in Performance Track; number of applications and annual reports reviewed; number of site visits conducted; report on the waste reduced or recycled, waste and energy conserved, and environmental improvements achieved.

OPEI FY06 National Program Guidance a-2 3/02/2006

#### Region 8

Sub-objective 5.2.3: Business and Community Innovation A) and B) Current State/Major Problems to be Addressed: Recruitment for the National Performance Track Program: The Agency's voluntary National Performance Track program was originally designed to recruit industrial facilities. To date, Region 8 has signed 12 facilities to participate in the Performance Track program, one of which is a federal agency. Because of the number of federal land management agencies located within Region 8 and their commitment to implementing environmental management systems (EMS), Region 8 staff have been focusing their attention on the National Park Service (NPS) Intermountain Region and the USDA Forest Service to provide technical assistance with the implementation of EMSs in

their facilities, which would make them eligible to apply for the Agency's Performance Track program. C) Regional Strategies/Approaches/Tools: National Performance Track Program: Region 8 will recruit both federal and industrial facilities for the voluntary Performance Track program to receive the benefits of low priority for inspection, recognition as an environmental leader for going beyond compliance, meet with senior EPA managers and participate in annual recognition with the Administrator in Washington, D.C. Region 8 will plan and facilitate an annual regional recognition event with senior leadership.

D) Primary Measures of Progress: The number of federal facilities implementing an Environmental Management System; the number of federal and industrial facilities accepted into the Agency's Performance Track program; and the number of facilities participating in the regional and national recognition events.

#### Region 9

Sub-objective 5.2.3: Business and Community Innovation: Through 2008, achieve measurably improved environmental performance through sector-based approaches, performance-based programs, and assistance to small business. Current Status: The National Environmental Performance Track (Performance Track) program is designed to recognize and encourage top environmental performers - those who go beyond compliance with regulatory requirements to attain levels of environmental performance and management that benefit people, communities, and the environment. Region 9 has 27 current members in the program. To qualify for Performance Track, a facility must demonstrate that it: has adopted and implemented an environmental management system (EMS) that includes the elements specified below: is able to demonstrate specific environmental performances and commit to continued improvement; commits to public outreach and performance reporting; and has a record of sustained compliance with environmental requirements.

Charter members expect to achieve the following results by FY 2004: reduce air criteria pollutants by 68 tpy and greenhouse gases by 940 tpy; reduce energy use by 20,000 Mwh/yr; reduce accidental releases by 7 fewer per year; reduce 8000 tpy of solid waste; 17 tpy of hazardous waste; increase recycling and composting; and preserve 2500 acres of land in Scottsdale.

#### OPEI FY06 National Program Guidance a-3 3/02/2006

Proposed Measures of Progress: Total membership in PT for the Region and by State; and demonstrated results from PT through improvements in the following environmental categories: water use, energy use, total solid waste, air releases, water discharges, land preservation. Sub-objective 5.2.3: Business and Community Innovation Strategies: Add members to National Environmental Performance Track program; Programs and Tools: increase participants 10% each year; conduct 2 site visits at each facility per year; work with businesses to remove regulatory and other barriers;

#### Region 10

Sub-objective 5.2.3: Business and Community Innovation. Through 2008, achieve measurably improved environmental performance through sector-based approaches, performance-based programs, and assistance to small business. Strategies Measures and Targets: Expand National Environmental Performance Track membership. Tools and Programs: Include PT in PPAs with Region 10 States; coordinate with regional enforcement staff and States for application review; work with PEER Center to recruit public entities; coordinate with other regional programs to identify candidate referrals; conduct timely application review and site visits; work with HQ on developing member benefits and services, and applying them in the Region; and emphasize EMS capacity building. Measures and Targets: Conduct regional members' roundtable annually; conduct site visits as necessary and appropriate; increase regional membership to 20 facilities by 2006.

OPEI FY06 National Program Guidance a-4 3/02/2006